



Agenda Date: 1/31/01

Agenda Item: IV-B

**STATE OF NEW JERSEY**

**Board of Public Utilities**

*Two Gateway Center  
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF )  
SERVICE ELECTRIC CABLE TV OF NEW )  
JERSEY, INC. FOR A RENEWAL OF ITS )  
CERTIFICATE OF APPROVAL TO OWN, )  
OPERATE AND MAINTAIN A CABLE )  
TELEVISION SYSTEM IN THE TOWNSHIP )  
OF FRANKFORD, COUNTY OF SUSSEX, )  
STATE OF NEW JERSEY )

ORDER ADOPTING INITIAL  
DECISION SETTLEMENT AND  
RENEWAL  
CERTIFICATE OF APPROVAL

OAL DOCKET NO. CTV 5506-99  
BPU DOCKET NO. CE96030245

Robert G. Goode, Esq., Alampi, Arturi, D'Argenio & Guaglardi, Englewood Cliffs, New Jersey,  
for the Petitioner.

M. Richard Valenti, Esq., Morris, Downing & Sherred, Newton, New Jersey, for the Township.

BY THE BOARD:

On December 9, 1981, the Board granted Cable T.V. of Tri-States, Inc. d/b/a Matamoras Video Cable Inc. ("Matamoras") a Certificate of Approval in Docket No. 795C-6474 for the construction, operation and maintenance of a cable television system in the Township of Frankford ("Township"). On September 26, 1985, the Board approved the transfer of the Certificate of Approval from Matamoras to Service Electric Cable TV of New Jersey, Inc. ("Petitioner") in Docket No. CM85070748. Although the Petitioner's Certificate expired on December 9, 1996, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Township on May 30, 1995, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township held a public hearing on August 14, 1995, and on November 8, 1995, the Township adopted an ordinance granting renewal municipal consent to the Petitioner for a term of five years.

On March 28, 1996, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Petitioner requested the Board issue a Renewal Certificate of Approval, by direct certification for a term of 15 years. The Petitioner also alleged that the Township did not make a decision in the matter and was acting

arbitrarily, capriciously and that the lack of any decision was unsupported by the record of the Petitioner or as established by the Township during the hearings on the application.

On or about April 3, 1996, the Township filed an answer to the petition denying the allegation of inaction by the municipality. According to the Township's Answer, a decision was rendered in the form of an ordinance, which was adopted by the Township in the time-period required by the regulations.

The Office of Cable Television conducted settlement conferences with the Township and the Petitioner (hereafter to be referred to as "the parties") in an attempt to settle the outstanding issues. The parties were unable to reach an agreement on an acceptable ordinance. Among the outstanding issues were the length of the franchise term and construction agreements. Subsequently, on May 25, 1999, the Board transmitted the case to the Office of Administrative Law ("OAL") for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. As a result of negotiations at the OAL, the parties reached an agreement prior to hearings by producing a draft ordinance, which was acceptable to both parties. On November 8, 2000, the parties entered into the Stipulation of Settlement ("Settlement") that resolved the matter. The Stipulation of Settlement, which stated that the parties had reached an agreement, included an attached draft municipal consent ordinance stating the terms and conditions of the agreement between the parties.

On November 6, 2000, the Stipulation of Settlement was forwarded to Administrative Law Judge ("ALJ") William Gural. On November 9, 2000, ALJ Gural issued an Initial Decision recommending that the Board approve the settlement. In the Initial Decision, ALJ Gural found that the Stipulation of Settlement was voluntary, consistent with the law, disposed of all the issues in controversy and met the requirements of N.J.A.C. 1:1-19.1.

The Board received the Initial Decision on November 15, 2000. The Initial Decision had an effective date of December 30, 2000. The Board is required to adopt, modify or reject the decision within forty-five (45) days unless such time limit is otherwise extended. However, due to the Township's meeting schedule, the ordinance was adopted on December 19, 2000 and the parties were unable to complete the settlement until the Petitioner's acceptance of the adopted ordinance on January 17, 2001. On December 20, 2000, the Board authorized the filing of an extension with the OAL. The Board requested a forty-five day extension to provide for an effective date of February 13, 2001. On January 4, 2001, the OAL granted the request. Thereafter, the Petitioner accepted the ordinance on January 17, 2001 ("amended ordinance") and concurrently filed an amended petition.

The Board has reviewed the Initial Decision of ALJ Gural and the Stipulation of Settlement and FINDS that they are fair and reasonable and in the public interest. Therefore, the Board HEREBY ADOPTS the Initial Decision and the Stipulation of Settlement in their entirety, incorporating the terms thereof, into this final decision as if fully set forth at length herein. Additionally, the terms of the application for renewal municipal consent, as amended to reflect the terms of the settlement, are incorporated into this Renewal Certificate of Approval as if fully set forth at length herein.

The Board has reviewed the application for municipal consent, the ordinance and amended ordinance, the petition for a Renewal Certificate of Approval and amended petition and the Stipulation of Settlement. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, these qualifications were reviewed by the Township in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period is ten years and shall expire on December 5, 2006. The Office of Cable Television finds this term to be of reasonable duration.
5. The Township has reserved the right to review the performance of the Petitioner with regard to the amended ordinance and to seek redress administratively through the Board. Any determination by the Township that the Petitioner has failed to substantially comply with the material terms and conditions of the amended ordinance shall occur after notice and an opportunity to cure said deficiency. Upon issuance of any such findings of non-compliance, the Township may petition the Board for appropriate administrative action, including revocation of the franchise.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the amended ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office satisfying this requirement is located at 270 Sparta Avenue in the Township of Sparta.
9. The franchise fee to be paid to the Township is specified to be 2% of

the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.

10. The Petitioner shall provide service at standard and non-standard installation rates pursuant to the amended ordinance. The Petitioner shall resurvey the areas listed in the amended ordinance and shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I") with a minimum homes per mile ("HPM") figure of 12. For all other areas, the Petitioner shall utilize the LEP attached as Appendix "I" with a minimum HPM figure of 35.
11. The Petitioner shall provide the installation of one outlet and basic cable service to each school, the Municipal Building, the Library, the First Aid Building, Fire Department Buildings, the Township Garage, and the Homestead Building, free of charge. Any additional outlets shall be constructed and billed according to the amended ordinance.
12. If the Petitioner implements a senior citizens/disabled discount for persons meeting the eligibility requirements, pursuant to N.J.S.A. 30:4D-21 and N.J.A.C. 14:18-3.20, in any municipality where it provides service, it shall offer the same discount to residents of the Township.

Based upon these findings, the Board HEREBY CONCLUDES that, pursuant to N.J.S.A. 48:5A-17 and 28, the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

The Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township. However, this Renewal Certificate is issued on the following condition:

Due to the age of the matter, the Petitioner shall file an updated application form that reflects the current information and revisions to the application that were a result of the settlement, in accordance with all applicable rules and regulations. This information shall be submitted to the Board within sixty days of the issuance of this Certificate.

Furthermore, this Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on December 5, 2006.

DATED:

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

HERBERT H. TATE  
PRESIDENT

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH  
BOARD SECRETARY